Michael E. Sullivan, Esq. (SBN 5142)
Barry L. Breslow, Esq. (SBN 3023)
ROBISON, BELAUSTEGUI, SHARP & LOW
A Professional Corporation
71 Washington Street
Reno, Nevada 89503
Telephone: (775) 329-3151
Attorneys for Defendant
WFM NORTHERN NEVADA, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

NURTAN DOGAN, individually,

Plaintiff,

vs.

WFM NORTHERN NEVADA, INC.; and DOES 1-10, inclusive,

Defendants.
_______________________________________/

Case:

(Washoe County Case No.: CV16-01072)

DEFENDANT'S PETITION FOR REMOVAL

Defendants WFM NORTHERN NEVADA, INC. ("Defendant") submits this Petition for Removal of the above-captioned lawsuit entitled NURTAN DOGAN v. WFM NORTHERN NEVADA, INC, assigned to DEPT NO. 3, in the Second Judicial District Court located in Washoe County, Nevada ("State Court") to this Court pursuant to 28 U.S.C. §§1332, 1441, and 1446.

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

1. WHOLE FOODS was served with a copy of Plaintiff NURTAN DOGAN's ("Plaintiff") State Court Summons and Complaint ("Complaint") on or about May 18, 2016. Thus, this removal is timely because the 30-day period for filing the removal has not passed. 28 U.S.C. §1446(b).

2. Pursuant to 28 U.S.C. §1446(a), WHOLE FOODS has attached true and correct copies of the Complaint filed May 16, 2016, Proof of Service, and Summons,

respectively, as **Exhibit "A**."

3. WHOLE FOODS has provided and served a copy of the Petition for Removal on Plaintiff, NURTAN DOGAN, and will timely file a copy of the Petition for Removal with the Clerk of the Clark County District Court as required by 28 U.S.C. §1446(d).

4. WHOLE FOODS is informed and believes and hereon alleges that no other parties have appeared apart from itself and Plaintiff.

5. Removal from State Court to this Court is proper as this district embraces the place where the action is pending 28 U.S.C. §1441(a).

BACKGROUND

6. Plaintiff has asserted in her Complaint negligence – premises liability; for a fall from a chair that slipped from under her which occurred on June 3, 2015; Plaintiff is seeking general and special damages against Defendants WHOLE FOODS in excess of $70,000.00, plus other unspecified damages and costs of suit. Plaintiff's counsel stated on May 24th, 2016, that he could not stipulate that his client's case is worth less than $75,000.00.

COMPLETE DIVERSITY OF CITIZENSHIP AS TO THE PARTIES

7. WHOLE FOODS is informed and believes that Plaintiff is a citizen of Nevada. (See Plaintiff's Complaint).

8. WHOLE FOODS is a Delaware corporation, whose corporate status is active in the state of Nevada, and whose principal place of business is in Austin, Texas.

AMOUNT IN CONTROVERSY

9. The amount in controversy in this action purportedly exceeds $75,000.00. In the instant action, Plaintiff seeks unspecified damages for an alleged severe personal injuries and on information and belief; her special damages are in excess of $50,000.00. See Plaintiff's complaint. Plaintiff's medical bills, including her shoulder surgery exceed $50,000.00 Plaintiff is seeking pain and suffering, general damages in excess of

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$20,000.00. Thus the alleged value of Plaintiff's damages exceeds $75,000.00, exclusive of costs and interest.

DATED this 1st day of June, 2016

ROBISON, BELAUSTEGUI, SHARP & LOW
71 Washington Street
Reno, Nevada 89503

By: ______________________
Michael E. Sullivan, Esq.
Barry L. Breslow, Esq.
Attorneys for Defendant
WFM NORTHERN NEVADA, INC.

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Sharp & Low
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Reno, NV 89503
(775) 329-3151

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of ROBISON, BELAUSTEGUI, SHARP & LOW, and that on this date I caused to be served a true copy of the attached **DEFENDANT'S PETITION FOR REMOVAL** on all parties to this action by the method(s) indicated below:

✓ placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

_____ personal delivery/hand delivery

_____ emailing an attached Adobe Acrobat PDF version of the document to the email addresses below/facsimile (fax) and/or E-Filing pursuant to Section IV of the District of Nevada Electronic Filing Procedures

_____ Federal Express/UPS or other overnight delivery

_____ Reno Carson Messenger Service

James S. Beasley, Esq.
Law Office of James Shields Beasley
435 Court Street
P.O. Box 2936
Reno, NV 89505
Attorneys for Plaintiff

Dated this 1st day of June, 2016.

[signature]
Employee of Robison, Belaustegui, Sharp & Low

Robison, Belaustegui, Sharp & Low
71 Washington St.
Reno, NV 89503
(775) 329-3151

EXHIBIT A

EXHIBIT A

5/18/16
1431

CODE: 1067

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NURTAN DOGAN,

Plaintiff,

vs.

WFM NORTHERN NEVADA, INC.; and DOES 1 – 10, inclusive,

Defendants.

_______________________________/

Case No.: CV16-01072

Dept. No. 3

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b). The object of this action is: DAMAGES FOR NEGLIGENCE.

1. If you intend to defend this lawsuit, you must do the following within 20 calendar days after service of this summons, exclusive of the day of service:
   a. File with the Clerk of the Court, whose address is shown below, a **formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
   b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 17th day of May, 2016.

Issued on behalf of Plaintiff(s):

Name: James Shields Beasley
Address: 435 Court Street
P.O. Box 2936
Reno, Nevada 89501

Phone Number: 775-329-6852

JACQUELINE BRYANT
CLERK OF THE COURT

By A. Smith
Deputy Clerk
Second Judicial District Court
75 Court Street
Reno, Nevada 89501

DECLARATION OF PERSONAL SERVICE

(To be filled out and signed by the person who served the Defendant or Respondent)

STATE OF ____________________)
)
COUNTY OF ____________________)

I, ______________________________________, declare:
(Name of person who completed service)

1. That I am not a party to this action and I am over 18 years of age.

2. That I personally served a copy of the Summons and the following documents:

____

____

____

upon ______________________________________, at the following
(Name of Respondent/Defendant who was served)

address: ____

____

on the _____ day of ______________, ________.
(Month) (Year)

This document does not contain the Social Security Number of any Person.

I declare, under penalty of perjury under the law of the State of Nevada; that the foregoing is true and correct.

DATED this _____ day of ______________, 2016.

____
(Signature of person who completed service)

FILED
Electronically
CV16-01072
2016-05-16 02:39:46 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5517120 : yviloria

CODE:

JAMES SHIELDS BEASLEY
Nev. Bar No. 1733
LAW OFFICE OF JAMES SHIELDS BEASLEY
435 Court Street
Post Office Box 2936
Reno, Nevada 89505
(775) 329-6852
(775) 329-2174 - Fax
Attorney for Plaintiff Nurtan Dogan

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NURTAN DOGAN,

Plaintiff,

vs.

WFM NORTHERN NEVADA, INC.; and DOES 1 – 10, inclusive,

Defendants.

/

Case No.: CV16-01072

Dept. No. 3

(Exempt from Arbitration)

COMPLAINT FOR DAMAGES

Plaintiff Nurtan Dogan, by and through her attorney, James Shields Beasley, for her Complaint for Damages against WFM Northern Nevada, Inc., and DOES 1–10, inclusive, alleges and avers as follows:

I

Plaintiff is, and at all times herein mentioned was, a resident of the City of Reno, County of Washoe, State of Nevada.

II

Defendant WFM Northern Nevada, Inc., is, and at all times herein mentioned was, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and duly qualified to do business, and doing business, in the State of Nevada under the fictitious name and style of Whole Foods Market.

III

Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES 1–10, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and based thereon alleges that each of the fictitiously named defendants is negligently responsible in some manner for the occurrences herein alleged, and that plaintiff's injuries as herein alleged were proximately caused by that negligence.

IV

Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned each of the defendants was the agent and employee of each of the remaining defendants, and in doing the things hereinafter alleged, was acting within the course and scope of such agency and employment.

V

At all times herein mentioned, defendants, and each of them, owned, maintained, controlled, managed, designed, and operated the business premises known as Whole Foods Market, located at 6139 S. Virginia Street, Reno, Washoe County, Nevada 89502.

VI

On or about June 3, 2015, plaintiff Nurtan Dogan was a customer at Whole Foods Market in Reno, Washoe County, Nevada. After purchasing items of merchandise and passing through the check stand at Whole Foods Market, plaintiff Nurtan Dogan went to the area of Whole Foods Market where Whole Foods Market had set up tables and chairs where patrons of Whole Foods Market could sit down and eat or drink items which they had purchased from Whole Foods Market.

VII

At the aforementioned time and place, defendants, and each of them, negligently maintained, managed, controlled, designed, and operated this area where Whole Foods Market had set up tables and chairs so that patrons of Whole Foods Market could sit down and eat or drink items which they had purchased, in that a chair which defendants had placed in this area for the use of patrons of Whole Foods Market, i.e., a Chairton Chair 14 chair, was unstable, and when placed on the smooth concrete floor of this area, constituted a dangerous condition and unreasonable risk of harm which defendants knew, or in the exercise of reasonable care, should have known, and of which plaintiff Nurtan Dogan was at all times herein mentioned was unaware. Despite their knowledge of this dangerous condition and unreasonable risk of harm, defendants negligently failed to take steps to make the condition safe or warn plaintiff of the dangerous condition, all of which caused plaintiff to fall onto the concrete floor of the store, hitting her head on the concrete floor when, as she was attempting to sit in the chair, the chair failed to provide her with needed support and slid out from her.

VIII

As a proximate result of the negligence of defendants, and each of them, plaintiff was hurt and injured in her health, strength, and activity, sustaining injury to her nervous system and person, all of which injuries have caused, and continue to cause, plaintiff great mental, physical, and nervous pain and suffering. Plaintiff is informed and believes, and based thereon alleges that, such injuries will result in some permanent disability to her. As a result of such injuries, plaintiff has suffered general damages in an amount according to proof.

IX

As a further proximate result of the negligence of defendants, and each of them, plaintiff has incurred, and will continue to incur, medical and related expenses in an amount according to proof. As of December 1, 2015, plaintiff's medical expenses amounted to $50,237.01.

X

As a further proximate result of the negligence of defendants, and each of them, plaintiff's earning capacity has been greatly impaired, both in the past and in the present in an amount according to proof.

WHEREFORE, plaintiff prays judgment against defendants, and each of them, as follows:

1. For general damages in an amount in excess of $20,000;

2. For medical and related expenses in excess of $50,237.00;

3. For loss of earnings according to proof;

4. For costs of suit incurred herein; and

5. For such other and further relief as this Court may deem just and proper in the premises.

DATED this 16th day of May, 2016.

AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

LAW OFFICE OF JAMES SHIELDS BEASLEY
Attorney for Plaintiff Nurtan Dogan
435 Court Street
P.O. Box 2936
Reno, Nevada 89505

By ____________________
JAMES SHIELDS BEASLEY

CT Corporation

Service of Process Transmittal
05/18/2016
CT Log Number 529188539

TO: Roberta Lang
Whole Foods Market, Inc.
550 Bowie St
Austin, TX 78703-4644

RE: **Process Served in Nevada**

FOR: WFM Northern Nevada, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	NURTAN DOGAN, Pltf. vs. WFM NORTHERN NEVADA, INC., et al., Dfts. // To: WFM NORTHERN NEVADA, INC.
DOCUMENT(S) SERVED:	Summons, Declaration, Complaint
COURT/AGENCY:	Washoe County District Court, NV Case # CV1601072
NATURE OF ACTION:	Personal Injury - Failure to Maintain Premises in a Safe Condition - On or about June 3, 2015 at 6139 S. Virginia Street, Reno, Washoe County, Nevada 89502
ON WHOM PROCESS WAS SERVED:	The Corporation Trust Company of Nevada, Carson City, NV
DATE AND HOUR OF SERVICE:	By Process Server on 05/18/2016 at 14:31
JURISDICTION SERVED :	Nevada
APPEARANCE OR ANSWER DUE:	Within 20 days, exclusive of day of service
ATTORNEY(S) / SENDER(S):	James Shields Beasley LAW OFFICE OF JAMES SHIELDS BEASLEY 435 Court Street P.O. Box 2936 Reno, NV 89505 (775) 329-6852
ACTION ITEMS:	CT has retained the current log, Retain Date: 05/18/2016, Expected Purge Date: 05/23/2016 Image SOP Email Notification, Email Process SOP@WHOLEFOODS.COM Email Notification, Roberta Lang barbara.jenkins@wholefoods.com
SIGNED:	The Corporation Trust Company of Nevada
ADDRESS:	701 S Carson St. Suite 200 Carson City, NV 89701-5239
TELEPHONE:	314-863-5545

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.